

Serial No. 09/864,809
60137-026REMARKS

Applicant wishes to thank the Examiner for the detailed remarks and the allowance of claims 17-22, 28, 29, and 31-35. Claims 1-3, 5-12, 14, 16, 26, 27, 30 have been amended. New claims 36-37 are presented. Accordingly, claims 1-3, 5-12, 14, 16-22, 26-37 are pending.

The Examiner has rejected Figures 2A-2D under 35 USC §132(a) and 37 CFR 1.121(f) arguing that the new relative sizes of the valve openings and the new positions of the openings are considered new matter. Applicant only amended Figures 2A-2D in accordance with that originally disclosed in originally filed specification ¶7; claims 11 and 22; and Figure 3. That is, no new matter has been presented. Likewise, the amendments made to the specification only correct what may be arguably a few inconsistencies, but under no just interpretation may be considered new matter. When the specification and drawings are taken as a whole, the subject matter was described in such a way as to reasonably convey to one skilled in the relevant art that the inventors at the time the application was filed had possession of the claimed invention. Any such skilled person is enabled to make and use the invention following the teaching within the specification of the application. The decision by the BPAI as well as the Examiner's allowance of claims 17-22, 28, 29, and 31-35 further substantiates Applicant's contention.

Claims 1-12, 14, 16, 26, 27, and 30 were rejected under 35 USC §112, second paragraph. Applicant respectfully submits that amended claim 1 and the associated dependent claims are properly allowable under 35 USC §112, second paragraph.

Claims 1-12, 14, 16, 26, 27, and 30 were rejected under 35 USC §112, first paragraph as failing to comply with the written description requirement. The Examiner continues to suggest that the phrase "comprising an inlet to a mixer section and an outlet from said mixer section," which was added in the amendment filed January 7, 2003 is not described in the original filing. This cannot be sustained.

In fact, such a rejection was specifically refuted by the BPAI. The full paragraph to which the Examiner refers at page 5 is as follows:

The Examiner's position here is unsound. Even accepting the examiner's conjecture that mixing could take place in Larsen's steam supply pipe 5, a person of ordinary skill in the art would not view this pipe as a mix head of the sort recited, *however broadly*, in claim 1.

Serial No. 09/864,809
60137-026

[BPAI decision on Appeal Mailed June 10, 2005; emphasis added]

In reversing the 35 U.S.C. §102(b) rejection, the Board here found that although the claim may be broad, a person of ordinary skill in the art would not view the *Larsen* pipe as a mix head of the sort recited. The Board thereby essentially admits that Applicant's recitation was clear enough such that a person of ordinary skill in the art could distinguish the claimed mix head from that of the *Larsen* reference. As the Examiner implies only that a mix head comprising an inlet to a mixer section and an outlet from said mixer section is new matter, the Examiner is attempting to suggest that such a limitation has not been disclosed. This simply cannot be sustained. In fact, the BPAI decision has already refuted such a contention. However, to clarify any purported discrepancy, Applicant has amended claim 1 to specifically address the Examiner's rejection. Applicant respectfully submits that amended claim 1 and the associated dependent claims are properly allowable under 35 USC §112, first paragraph.

Claims 1, 2, 7-12, 14, 16, 26 and 30 were rejected under 35 USC §102(b) as being anticipated by *Davidson* (2131836). Applicant respectfully traverses this rejection. Claim 1 has been amended to include the limitation that said plurality of adjacent sequentially activatable valves each axially movable along a longitudinal axis transverse to said passage. *Davidson* discloses a multiple of plugs which may be rotated as desired by means of squared portions 33 formed on the external ends of the stems 32. [Col. 3, lines 58-60.] *Davidson* fails to disclose or suggest any axial movement along the longitudinal axes of the plugs. The amended claims are properly allowable.

Please charge \$100.00 to Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, for 2 claims in excess of 20. If any additional fees or extensions of time are required, please charge to Deposit Account No. 50-1482.

Serial No. 09/864,809
60137-026

Applicant respectfully submits that this case is in condition for allowance. If the Examiner believes that a teleconference will facilitate moving this case forward to being issued, Applicant's representative can be contacted at the number indicated below.

Respectfully Submitted,

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